

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**TODD M. TERRELL**

**PLAINTIFF**

**V.**

**NO. 4:09CV002-P-D**

**JAMES BREWER, et al.**

**DEFENDANTS**

**ORDER**

A clerk's entry of default was entered on June 9, 2009, against Defendant Franketia Price. The Plaintiff has filed a motion for entry of default judgment.

While the docket of the court indicates that Defendant Price has been served with process, a review of the return of process shows that there was an attempt to serve the Defendant by certified mail. This court may perfect process according to its own rules of civil procedure. Under Rule 4 F.R.C.P., this court may also serve process by any method allowed by the laws of the state of Mississippi. There is no provision in either federal or state law for the service of process upon an in-state defendant by certified mail. Because Defendant Price has not been served with process of this court, the clerk's entry of default must be vacated and the Plaintiff's motion for default judgment (docket entry 34) is DENIED. The clerk's entry of default against Defendant Price should be SET ASIDE.

THIS the 12<sup>th</sup> day of August, 2009.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE